

Application No. 10/024,080
Response to Office Action

Customer No. 01933/

R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

Claims 1-9 were rejected under 35 USC 112, first paragraph, as not being enabled by the disclosure in the specification on the basis that the claims failed to recite critical features of the invention. This rejection, however, is respectfully traversed, as explained in detail below.

In addition, claims 1-9 were also rejected under 35 USC 112, second paragraph, on the basis that the recitations of the "first", "second", and "third" commands were unclear and that the use of the term "exchanged" with respect to the third command was improper.

In response, independent claims 1, 4, 7 and 9 have been amended to clarify the feature of the present invention whereby the first command indicates that the transmission of the data from the data circuit-terminating equipment to the circuit has not ended, as supported by the disclosure in the specification at, for example, page 9, line 8 to page 10, line 16. See, for example command "+FHG:E3.30", as well as commands "+FHG:E3.50", "+FHG:E3.70", and "+FHG:E3.90" in Fig. 2.

In addition, independent claims 1, 4, 7 and 9 have been amended to clarify the feature of the present invention whereby

Application No. 10/024,080
Response to Office Action

Customer No. 01933/

the second command is a command for requesting confirmation of the progress of the transmission of the data from the data circuit-terminating equipment to the circuit, as supported by the disclosure in the specification at, for example, page 10, line 17 to page 11, line 13. See, for example, commands "AT+FHS?" in Fig. 2.

Still further, independent claims 1, 4, 7 and 9 have been amended to clarify the feature of the present invention whereby the third command is a command for indicating that the transmission of the data has ended, as supported by the disclosure in the specification at, for example, page 11, lines 14-20. See, for example, command "+FHG:00" in Fig. 2.

Yet still further, claim 1 has been amended to avoid using the term "exchanged" as well as to clarify that claim 1 is directed to a confirmation sequence that is a part of a communication sequence (see Fig. 2, for example).

And yet still further, claims 1-5, 7 and 9 have been amended to make some minor grammatical improvements and/or to correct some minor clarifying amendments and grammatical improvements so as to put them in better form for issuance in a U.S. patent.

No new matter has been added, and it is respectfully requested that the amendments to claims 1-5, 7 and 9 be approved and entered.

Application No. 10/024,080
Response to Office Action

Customer No. 01933/

It is respectfully submitted, moreover, that claims 1-9, as amended, are in full compliance with the requirements of both 35 USC 112, first paragraph, and 35 USC 112, second paragraph, and it is respectfully requested that the rejections thereunder be withdrawn.

On page 2 of the Office Action, the Examiner asserts that the claims recite "only three commands and three phases" out of five phases shown in Fig. 2, and the Examiner asserts that all five phases are critical to the practice of the invention.

It is respectfully submitted, however, that as clearly explained in the specification, the present invention is directed to the confirmation phase, and that the other phases are not in fact critical to practicing the invention.

In addition, it is respectfully pointed out that as more clearly recited in amended independent claims 1, 4, 7 and 9, the three commands of the claimed present invention do not correspond to different phases of Fig. 2, but rather correspond to commands issued within the confirmation phase of Fig. 2. That is, although initiation of communication with a destination circuit, initiation of data transmission, and post-transmission processing may occur according to the claimed present invention, it is not necessary to perform these functions in the manner strictly prescribed by phases A, B, C and E in Fig. 2. Indeed, it is

Application No. 10/024,080
Response to Office Action

Customer No. 01933/

explicitly stated in the specification that although the present invention is described in conjunction with the recommendation T.32 as shown in Fig. 2, the sequence stipulated by recommendation T.32 can be altered slightly (page 13, lines 2-7) or departed from completely (page 13, lines 18-26).

Accordingly, it is respectfully submitted that the specification clearly explains that the phases other than the confirmation phase are not critical to practicing the invention, contrary to the Examiner's assertion that all five phases of Fig. 2 are critical to the invention.

As explained by MPEP 2164.08(c), "an enablement rejection based on the grounds that a disclosed critical limitation is missing from a claim should be made only when the language of the specification makes it clear that the limitation is critical for the invention to function as intended. Broad language in the disclosure, including the abstract, omitting an allegedly critical feature, tends to rebut the argument of criticality."

In view of the foregoing, it is respectfully respectfully requested that the rejections under 35 USC 112, first and second paragraphs, be withdrawn.

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Entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

Application No. 10/024,080
Response to Office Action

Customer No. 01933/

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,

/Douglas Holtz/

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